

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Desnoyers et al.
 Appl. No. : 10/035,977
 Filed : December 26, 2001
 For : SECRETED AND
 TRANSMEMBRANE
 POLYPEPTIDES AND NUCLEIC
 ACIDS ENCODING THE SAME
 Examiner : Unknown

PATENT

#7
 Reg. for Reg.
 6/24/02

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June 19, 2002
 (Date)

AnneMarie Kaiser, Reg. No. 37,649

**REQUEST FOR WITHDRAWAL OF REQUIREMENT FOR DEPARTMENT OF
 ENERGY PROPERTY RIGHTS STATEMENT UNDER 1002.5(a)(1)**

Assistant Commissioner for Patents
 P.O. Box 2327
 Arlington, VA 22202

Attn: LICENSING AND REVIEW

Dear Sir:

Applicants hereby request reconsideration and withdrawal of the Notice mailed on May 21, 2002 relating to the Department of Energy property rights statement under 42 U.S.C. 2182. A copy of the Notice is attached.

The subject matter in the above-referenced application is not "useful in the production or utilization of special nuclear material or atomic energy." Instead, the subject matter of the above-referenced application relates to the identification and isolation of novel nucleic acids and to the recombinant production of novel polypeptides.

Applicants therefore request that the Notice and requirement for a property rights statement be withdrawn and that the application be passed to Group Art Unit 1646 for examination.

Respectfully submitted,
 KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated:

June 19, 2002

By:

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INE. 3030R1C10
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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/035,977	12/26/01	DESNOYERS, ET AL.	P3030R1C10

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EXAMINER	
ART UNIT	PAPER NUMBER
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LICENSING & REVIEW

**IF NO RESPONSE TO THIS NOTICE IS RECEIVED WITHIN FORTY-FIVE DAYS, A
FORMAL REQUIREMENT WILL BE ISSUED**

The subject matter of this application appears to:

☒ be "useful in the production or utilization of special nuclear material or atomic energy" as recited in 42 U.S.C. 2182 (Department of Energy (DOE)).

☐ "have significant utility in the conduct of aeronautical and space activities" as recited in 42 U.S.C. 2457 (National Aeronautics and Space Administration (NASA)).

Accordingly, no patent can issue on this application unless applicant(s) file a statement (under oath or in the form of a declaration as provided by 37 CFR 1.68) setting forth (1) the full facts concerning the circumstances under which the invention was made and conceived and (2) the relationship (if any) of the invention to the performance of any work under any contract or other arrangement with the Agency(ies) noted above. On the reverse side of this form is an example of an acceptable format for this statement. The language appearing in paragraphs III and/or IV of the example *must* appear if applicant is attempting to establish that no relationship (under item 2 above) exists.

If the invention disclosed in this application was developed under a contract, grant or cooperative agreement between the Agency indicated above and a person, small business or non-profit organization and rights to the invention have been determined by specific reference to 35 U.S.C. 202 in the contract, grant or cooperative agreement, then applicant need not submit the statement described above. Instead, applicant may file a verified statement (under oath or in the form of a declaration, 37 CFR 1.68) setting forth the information required by 35 U.S.C. 202(c)(6).

IF NO STATEMENT HAS BEEN RECEIVED WITHIN FORTY-FIVE DAYS OF THE MAIL DATE INDICATED ABOVE, a formal requirement for statement will then be issued. No provision is made for extension of the statutory thirty-day period for response to the formal requirement and the penalty for failure to file an acceptable and timely statement is abandonment of the application. Therefore, applicants are strongly encouraged to submit a statement at this time in order to avoid the issuance of a formal requirement.

IT IS IMPORTANT TO NOTE that the statement must accurately represent the property rights situation of the claimed invention if and when the application is found allowable. Thus, if during prosecution before the examiner, the claimed invention is so altered or the property rights situation so changed as to impact the accuracy of a statement submitted earlier, a supplemental statement must be filed. Failure to submit such additional information where appropriate may be considered a false representation of material facts and render the patent owner vulnerable to loss of patent rights and other sanctions as set forth in the statutes. The PTO will not review allowed applications for this possibility. The responsibility for complying with the statutes rests with the applicants.

Any questions regarding this requirement should be directed to Licensing and Review at (703) 305-1101.

(703) 305-0239

**PLEASE DIRECT ALL COMMUNICATIONS RELATING TO THIS MATTER TO THE
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APP. NO.: 10/035,977
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